

FILED

April 1 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA-09-0487

VALERIE EMMERSON,

Appellant,

v.

WALLACE C. WALKER and RANA RAE WALKER,

Appellees,

v.

S. TUCKER JOHNSON,

Appellee.

FILED

MAR 31 2010

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STATE OF MONTANA

**APPELLANT'S REPLY TO WALKER'S CLAIMED ATTORNEY'S FEES
(RESPONSE TO PARAGRAPH VII, PAGE 39-42 OF WALKER'S OPENING
BRIEF)**

On Appeal From The District Court Of The
Sixth Judicial District Court Of The State Of Montana
In And For The County Of Sweet Grass

APPEARANCES:

KARL KNUCHEL
116 West Callender St.
P.O. Box 953
Livingston, MT 59047
Phone: (406)222-0135
karl@knuchelpc.com
ATTORNEY FOR
APPELLANT

LEANNE
SCHRAUDNER
Schraudner & Hillier
3825 Valley Commons Dr.
Suite 5
Bozeman, MT 59718
Phone: (406) 586 1643
ATTORNEY FOR
WALKERS

JAMES GOETZ
Goetz, Gallick & Baldwin
35 North Grand Ave.
P.O. Box 6580
Bozeman, MT 59771-6580
Phone: (406) 587-0618
ATTORNEY FOR S.
TUCKER JOHNSON

Quite simply put, Walker's counsel fails to acknowledge that had Walkers chose to deal with the contract action prior to suing Johnson, they could have resolved all questions of the legality of the contract through the Declaratory Judgment action brought by Emmerson. It was Walker and their counsel who chose to make it a three party lawsuit and involve Tucker Johnson, thus complicating the issues in the case. This was not an instance where bringing Johnson as a third party defendant was mandatory under the rules and as such, bringing him in only complicated the issues and made it more costly for both sides to litigate the issues between Emmerson and Walker on the contract. It should not be Emmerson's responsibility to tie trade out the efforts that Walker's counsel expended in preparing for and trying the case against Johnson.

Respectfully submitted this 30th day of March, 2010.

By 
KARL KNUCHEL
Attorney for Appellant Emmerson

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 11(4)(b) of the Montana Rules of Appellate Procedure, I certify that this brief is printed with 14 point proportionally spaced Times New Roman font; is double-spaced; Microsoft Word 2003, and is not more than 5,000 words, excluding Certificate of Service and Certificate of Compliance.

By



KARL RNUCHEL

CERTIFICATE OF SERVICE

I hereby certify that I served a full, true and accurate copy of the foregoing document on the 30th day of March, 2010, to the following named person:

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X by depositing a copy of the same in the United States Mail, postage paid, and addressed as follows:

1. LEANNE SCHRAUDNER
Schraudner and Hillier, PLLC
3825 Valley Commons Dr., Suite 5
Bozeman, MT 59718
Attorney for Walkers

2. JAMES GOETZ
Goetz, Gallick & Baldwin
35 North Grand Ave.
P.O. Box 6580
Bozeman, MT 59771-6580
Attorney for S. Tucker Johnson


